

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1312 OF 2009

1. Smt. Dashoda Bai, aged about 30 years, W/o Dashrath Lodhi
 2. Sunil, aged about 14 years, S/o Dashrath Lodhi
 3. Ku. Lata Bai, aged about 12 years, D/o Dashrath Lodhi
- No. 2 and 3 being minor through natural guardian mother Smt. Dashoda Bai, aged about 30 years, W/o Dashrath Lodhi
4. Smt. Daanbai, aged about 65 years, W/o Jagdish Lodhi
 5. Jagdish, S/o Bihari Lodhi, aged about 68 years
- All R/o Village- Aveli, Police Station- Khairagarh, Post- Saloni, Tahsil- Khairagarh, District Rajnandgaon.

... Appellants

versus

1. Vishnu Nishad, aged about 32 years, S/o Bhagwani Nishad, R/o near Shiv Mandir, Sunder Nagar, Kohka, Bhilai, Ward No.4, Thana-Supela, Bhilai, District Durg.
2. Mr. H.K. Sahani, S/o K.D. Sahani, R/o 3, LAVEE-6, Bhilai, Distt. Durg.
3. Narayan Prasad Jangle, S/o Sukhram, Narayan Garage, A Market Sector-4, near Sindhu Bhawan, Bhilai, District Durg.

... Respondents

For Appellants	:	Mr. Parag Kotecha, Advocate.
For Respondent No.2	:	Mr. Gautam Khetrpal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/11/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the claimants seeking enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal, Khairagarh, District Rajnandgaon, vide its award dated 21.7.2009 passed in Motor Accident Claim Case No.06/2007.
2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.2,86,183/- to the appellants-claimants with interest thereon at the rate of 7.5% per annum from the date of presentation of the claim application and, exonerating the respondent no.2-H.K. Sahani, has fastened the liability for payment of compensation upon respondent no.1-Vishnu Nishad and respondent no.3-Narayan Prasad Jangle being the driver and owner of the offending vehicle.

3. The present appeal is pending since 2009. This Court on 20.10.2009 while admitting the appeal had ordered for issuance of notice to the respondents. However, though the respondents no. 1 and 3 are duly served but there is no representation on their behalf in any of the date of hearing which took place up till now.

4. Learned counsel for the appellants-claimants submits that the income assessed and the multiplier applied by the learned Tribunal is on the lower side and that the learned Tribunal has also not considered the income under the future prospects.

5. Learned counsel appearing for respondent no.2 submits that the award has been passed by the learned Tribunal considering the factual matrix of the case is just and reasonable and there is no scope of any enhancement.

6. Considering the fact that the accident in the instant case is of February, 2006, this Court has no hesitation in reaching to the conclusion that at the relevant point of time the income of even an unskilled labour was more than Rs.100/- a day which makes it Rs.3000/- a month and Rs.36,000/- yearly and therefore the income assessed by the learned Tribunal in the instant case at Rs.15,000/- yearly is definitely unreasonably low. This Court thus assesses the monthly income of the deceased at Rs.3000/- a month which comes at Rs.36,000/- yearly and proceeds to quantify the compensation accordingly.

7. Accepting the annual income of the deceased at Rs.36,000/- if 40% of the same is added towards the future prospects, the amount would come to Rs.50,400/- of which if 1/4th is deducted towards the personal and living expenses, considering the total number of claimant being 5, the balance amount would become Rs.37,800/- which if multiplied applying the multiplier of 16, the net figure would reach to Rs.6,04,800/- which is the

loss of dependency which the claimants shall be entitled for instead of Rs.1,60,000/- which was awarded by the learned Tribunal. The claimants shall also be entitled for compensation as awarded towards medical expenditure incurred of Rs.76,183/-. In addition, in the opinion of this Court, the claimants shall be entitled for a compensation of Rs.19,017/- under the conventional heads.

8. It is accordingly ordered that the appellants-claimants shall be entitled for a total compensation of Rs.7,00,000/- instead of Rs.2,86,183/- which was awarded by the learned Tribunal, with interest thereon at the same rate as has been awarded by the learned Tribunal.

9. The appeals stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge